The opinion in support of the decision being entered today is <u>not</u> binding precedent of the Board.

Paper 16

Filed by: Trial Section Merits Panel

Box Interference

Washington, D.C. 20231 Tel: 703-308-9797 Fax: 703-305-0942 Filed: May 2, 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

IZUMU SAITO, YUMI KANEGAE and MICHIO NAKAI

Junior Party, Patent 5,700,470 MAILED

MAY 2 - 2002

PAT. & T.M. OFFICE BOARD OF PATENT APPEALS AND INTERFERENCES

AVENTIS PHARMA S.A.

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Senior Party Application 08/397,225

Patent Interference No. 104,819 (CAS)

Before: SCHAFER, TORCZON and SPIEGEL, <u>Administrative Patent Judges</u>. SPIEGEL, <u>Administrative Patent Judge</u>.

JUDGMENT PURSUANT TO 37 CFR § 1.662(a)

"Pursuant to 37 C.F.R. § 1.662(a), the party Saito hereby abandons the contest as to Count 1 and claims 1-6 corresponding thereto" (Paper 15). Therefore, it is ORDERED that judgment on priority as to Count 1 (Paper 1, p. 5), the sole count

in the interference, is awarded against junior party IZUMU SAITO, YUMI KANEGAE

and MICHIO NAKAI;

FURTHER ORDERED that junior party IZUMU SAITO, YUMI KANEGAE and MICHIO NAKAI is not entitled to a patent containing claims 1-6 (corresponding to Count 1) of Saito U.S. Patent 5,700,470, issued December 23, 1997, based on application 08/615,048, filed March 12, 1996;

FURTHER ORDERED that a copy of this paper shall be made of record in files of U.S. Patent 5,700,470 and U.S. application 08/397,225;

FURTHER ORDERED that if there is a settlement agreement which has not been filed, attention is directed to 35 U.S.C. § 135(c) and 37 CFR § 1.661; and

FURTHER ORDERED that the telephone conference call scheduled for May 8, 2002 is cancelled.

Administrative Patent Ju

RICHARD TORCZON

Administrative Patent Judge

Administrative Patent Judge

BOARD OF PATENT APPEALS AND **INTERFERENCES**

cc: (via Fax and Federal Express)

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